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7      *Attorney for Defendant Lee Canyon Ski Lifts, Inc.*

8      **IN THE UNITED STATES DISTRICT COURT**

9      **FOR THE DISTRICT OF NEVADA**

10     David Levy

CASE NO.

(State Court Case No. A-21-838353-C)

11     vs.

**NOTICE OF REMOVAL**

12     Lee Canyon Ski Lifts, Inc., a Nevada  
13     Corporation;

14     Defendant.

15     **TO THE CLERK OF THE UNITED STATES DISTRCT COURT FOR THE DISTRICT  
16     OF NEVADA AND ALL PARTIES:**

17        NOTICE IS HEREBY GIVEN that Defendant Lee Canyon Ski Lifts, Inc. (“Defendant”),  
18        by and through its undersigned counsel, hereby removes this action from the District Court of the  
19        State of Nevada, County of Clark, to the United States District Court for the District of Nevada  
20        pursuant to 28 U.S.C. §§ 1441 and 1446. This Court has federal question and supplemental  
21        jurisdiction of this action under 28 U.S.C. §§ 1331 and 1337(a). In support of the removal,  
22        Defendant states the following:

23     **I. REMOVED CASE**

24        1. Plaintiff David Levy (“Plaintiff”) filed this civil action against Defendant on  
25        August 19, 2021, in the District Court of Nevada, Clark County, and styled *David Levy v. Lee*  
26        *Canyon Ski Lifts, Inc.*, Case No. A-21-838353-C. A true and correct copy of the documents

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1 received by Defendant relating to the above-captioned action are attached hereto as **Exhibit 1**.  
2 Defendant received the summons and Complaint on August 31, 2021.

3       2.     The Complaint alleges claims against Defendant under the Family Medical Leave  
4 Act, 29 U.S.C. 2611 *et seq.*; Fair Labor Standards Act, 23 U.S.C. § 201 *et seq.*; Americans with  
5 Disabilities Act, 42 U.S.C. § 12101 *et seq.*; and Title VII, 42 U.S.C. § 2000e *et seq.* for alleged  
6 discrimination and retaliation related to his employment. The FMLA, FLSA, ADA and Title VII  
7 are federal statutes and the action is removable to this Court under federal-question jurisdiction.  
8

See *Emich v. Touche Ross*, 846 F.2d 1190, 1196 (9th Cir. 1988).

9       3.     The Complaint also alleges claims under Nevada state law against Defendant.  
10 Plaintiff alleges such claims arise out of and are related to his employment. Therefore,  
11 Plaintiff's state-law claims "derive from a common nucleus of operative fact" and are removable  
12 under supplemental jurisdiction pursuant to 28 U.S.C. § 1337. *See id.* at 1195 (citing *United*  
13 *Mine Workers v. Gibbs*, 383 U.S. 715, 725 (1966)).

14 **II. DEFENDANT HAS SATISFIED THE PROCEDURAL REQUIREMENTS FOR  
REMOVAL.**

15       4.     This removal is timely. Defendant is filing this notice within 30 days of August  
16 31, 2021—the date Defendant received the summons and Complaint, which sets forth the claim  
17 for relief upon which the action is based. *See* 28 U.S.C. § 1446(b)(1); Fed. R. Civ. P. 6(a)  
18 (computation of time).

19       5.     Defendant attaches as **Exhibit 2**, a copy of the Notice of Filing of Removal,  
20 which is concurrently filed with the District Court of Clark County, Nevada in this matter.

21       6.     The United States District Court for the District of Nevada is the proper venue for  
22 removal under 28 U.S.C. § 1441(a) because Plaintiff filed his Complaint in Clark County,  
23 Nevada.

24       7.     Pursuant to 28 U.S.C. § 1446(d), promptly after the filing of this Notice of  
25 Removal, Defendant shall provide written notice to counsel for Plaintiff.

26       8.     By seeking removal, Defendant does not waive any defenses, including, but not  
27 limited to, lack of personal jurisdiction, insufficiency of process, or service of process.  
28

### III. CONCLUSION

Based on the foregoing, Defendant respectfully requests that the court remove the above-captioned action to this Court and no further proceedings be had in the State court.

DATED this 21<sup>st</sup> day of September, 2021.

## **GORDON REES SCULLY MANSUKHANI, LLP**

/s/ John F. Schneringer

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 21<sup>st</sup> day of September 2021, and pursuant to Fed. R. Civ. Pro. 5, I served a true and correct copy of the foregoing **NOTICE OF REMOVAL** via CM/ECF to the following:

James P. Kemp  
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Las Vegas, NV 89130  
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*Attorneys for Plaintiff*

/s/ Andrea Montero  
An employee of Gordon Rees Scully  
Mansukhani, LLP

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1  
2 **TABLE OF EXHIBITS**  
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Exhibit	Description
1.	Documents received by Defendant relating to the above-captioned action. Summons and Complaint
2.	Notice of Removal to Federal Court

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